

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 19494
[REDACTED],	)	
	)	DECISION
Petitioner.	)	
_____	)	

This case arises from a timely protest of a State Tax Commission staff decision adjusting a property tax reduction benefit for 2006. This matter was submitted for a decision based on the documents in the file. The State Tax Commission has reviewed the file and makes its decision.

The amount of the property tax reduction benefit depends on the income received by a claimant and the claimant's spouse--the greater the income, the smaller the benefit. [Redacted] (petitioner) filed a property tax reduction benefit application on April 4, 2006.

Pursuant to Idaho Code, the staff reviews the applications that have been submitted to the county where the petitioners live. During this process, the staff examined the petitioner's application and the attached documents. The petitioner qualified as a claimant because she is recognized as disabled by the Social Security Administration. The application showed the petitioner as an unmarried woman with income of \$6,912 from Social Security that was reduced by \$2,000 of out-of-pocket medical expenses.

When the Tax Commission staff compared the petitioner's application with the records retained by the Tax Commission, they found the information to be in conflict. Tax Commission records showed the petitioner as a married woman. Her 2004 Idaho income tax return had been filed as "married filing joint" with [Redacted]. The petitioner and Mr. [Redacted] had received a \$363 refund. The return had been signed by both the petitioner and Mr. [Redacted].

Because the petitioner had not included her husband's income in the application for a property tax reduction benefit, the staff notified the petitioner of the intent to deny her the benefit. The petitioner was asked to provide her spouse's 2005 income figures.

The petitioner telephoned the Tax Commission staff when she received the letter advising her of the intent to deny her benefit. She said she was never married to Mr. [Redacted] even though they filed federal and state tax returns as married filing joint. She followed that conversation with a letter of appeal again stating that she was not married.

Idaho Code § 63-701 states in pertinent part:

**63-701. Definitions. As used in this chapter:**

- (1) **"Claimant" means a person who has filed an application** under section 63-602G, Idaho Code, and has filed a claim under the provisions of sections 63-701 through 63-710, Idaho Code. Except as provided in section 63-702(2), Idaho Code, on January 1, or before April 15, of the year in which the claimant first filed a claim on the homestead in question, a claimant must be an owner of the homestead and on January 1 of said year a claimant must be:
- (a) Not less than sixty-five (65) years old; or
  - (b) A child under the age of eighteen (18) years who is fatherless or motherless or who has been abandoned by any surviving parent or parents; or
  - (c) A widow or widower; or
  - (d) A disabled person who is recognized as disabled by the social security administration pursuant to title 42 of the United States Code, or by the railroad retirement board pursuant to title 45 of the United States Code, or by the office of management and budget pursuant to title 5 of the United States Code; or
  - (e) A disabled veteran of any war engaged in by the United States, whose disability is recognized as a service-connected disability of a degree of ten percent (10%) or more, or who has a pension for nonservice-connected disabilities, in accordance with laws and regulations administered by the United States department of veterans affairs; or
  - (f) A person, as specified in 42 U.S.C. 1701, who was or is entitled to receive benefits because he is known to have been taken by a hostile force as a prisoner, hostage or otherwise; or
  - (g) Blind.

(2) "Homestead" means the dwelling, owner-occupied by the claimant as described in this chapter and used as the primary dwelling place of the claimant and may be occupied by any members of the household as their home, and so much of the land surrounding it, not exceeding one (1) acre, as is reasonably necessary for the use of the dwelling as a home. It may consist of a part of a multidwelling or multipurpose building and part of the land upon which it is built. "Homestead" does not include personal property such as furniture, furnishings or appliances, but a manufactured home may be a homestead.

(3) "Household" means the claimant and the claimant's spouse. The term does not include bona fide lessees, tenants, or roomers and boarders on contract. "Household" includes persons described in subsection (8)(b) of this section.

(4) **"Household income" means all income received by the claimant and, if married, all income received by the claimant's spouse, in a calendar year.** (Emphasis added.)

When the petitioner signed her Idaho income tax return claiming to be married to Mr. [Redacted], her marital status became part of the Tax Commission's records. If that record is incorrect, it can be corrected by the petitioner and her claimed spouse filing amended income tax returns that would change their filing status.

On July 25, 2006, the petitioner and Mr. [Redacted] telephoned the Tax Appeals Specialist. During the ensuing conversation, both Mr. [Redacted] and the petitioner were told they could not have it both ways. If they are not married, the record needed to be corrected. They asked for a copy of the income tax return they had filed in 2004 saying they were going to file an amended return. However, to date, the Tax Commission has no record of a 2004 amended Idaho income tax return on file.

In the petitioner's application, she claimed \$2,000 for her portion of the costs for prescriptions at the [Redacted]. However, the printout prepared by the pharmacy shows only \$522.25 as the portion of the total expense that was paid by the petitioner.

The petitioner claimed to be married for the purpose of filing and paying Idaho individual income taxes. She now claims she is not married for the purpose of the property tax reduction benefit. The Tax Commission records show the taxpayer has a spouse. Nothing has been submitted to change that record. The Tax Commission does not have Mr. [Redacted]'s 2005 income information. The petitioner must be denied the property tax reduction benefit for 2006.

The State Tax Commission is aware there is some potential this decision could cause a hardship to the property tax reduction applicant in certain circumstances. The proper jurisdiction to handle such hardship situations falls with the county commissioners pursuant to Idaho Code § 63-711.

WHEREFORE, the decision of the State Tax Commission staff is hereby APPROVED, AFFIRMED and MADE FINAL.

An explanation of the petitioner's right to appeal this decision is enclosed with this decision.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

#### CERTIFICATE OF SERVICE BY MAIL

I hereby certify that I have on this \_\_\_\_\_ day of \_\_\_\_\_, 2006, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]

Receipt No.  
  
\_\_\_\_\_